

Dated: September 2, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

Appendix I

List of Comments in the Decision Memorandum

Comment 1: Whether to Collapse Venus and Affiliated Producer Sieves

Comment 2: Whether Certain U.S. Sales by Venus are Constructed Export Price ("CEP") or Export Price ("EP") Sales and Whether A Principal-Agent Relationship Exists

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-331-802]

Certain Frozen Warmwater Shrimp from Ecuador: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 9, 2009, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain frozen warmwater shrimp (shrimp) from Ecuador. This review covers 81 producers/exporters of the subject merchandise to the United States. The period of review (POR) is February 1, 2007, through August 14, 2007.

Based on our analysis of the comments received, we have made

certain changes in the margin calculations for Promarisco, S.A. (Promarisco) and Sociedad Nacional de Galapagos, S.A. (Songa), producer/exporters selected for individual review. Therefore, the final results for Promarisco and Songa differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled "Final Results of Review."

EFFECTIVE DATE: September 15, 2009.

FOR FURTHER INFORMATION CONTACT:

David Goldberger or Gemal Brangman, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4136 or (202) 482-3773, respectively.

SUPPLEMENTARY INFORMATION:

Background

This review covers 81 producers/exporters. The respondents which the Department selected for individual review are Promarisco and Songa. The respondents which were not selected for individual review are listed in the "Final Results of Review" section of this notice.

On March 9, 2009, the Department published in the **Federal Register** the preliminary results of the 2007 administrative review of the antidumping duty order on shrimp from Ecuador. *See Certain Frozen Warmwater Shrimp from Ecuador: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 9983 (March 9, 2009) (*Preliminary Results*). We invited parties to comment on those *Preliminary Results*. In May 2009, we received case briefs from the domestic producers of frozen warmwater shrimp (*i.e.*, the Ad Hoc Shrimp Trade Action Committee, hereafter "Domestic Producers"), the respondents, Promarisco and Songa, and the domestic processors of frozen warmwater shrimp ("the Processors"), an interested party in this proceeding. Rebuttal briefs were received from the Domestic Producers, Promarisco, Songa, and the Processors. In June 2009, we extended the deadline for the final results, due no later than September 8, 2009. *See Certain Frozen Warmwater Shrimp from Ecuador: Notice of Extension of Time Limit for the Final Results of the Third Administrative Review*, 74 FR 28018 (June 12, 2009).

The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The scope of this order includes certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,¹ deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the Penaeidae family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannamei*), banana prawn (*Penaeus merguensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of this order. In addition, food preparations, which are not "prepared meals," that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of this order.

Excluded from the scope are: 1) breaded shrimp and prawns (HTSUS subheading 1605.20.10.20); 2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; 3) fresh shrimp and prawns whether shell-on or peeled (HTSUS subheadings 0306.23.00.20 and 0306.23.00.40); 4) shrimp and prawns in prepared meals (HTSUS subheading 1605.20.05.10); 5) dried shrimp and prawns; 6) canned warmwater shrimp and prawns (HTSUS subheading 1605.20.10.40); 7) certain dusted shrimp; and 8) certain battered shrimp.

¹ "Tails" in this context means the tail fan, which includes the telson and the uropods.

Dusted shrimp is a shrimp-based product: 1) that is produced from fresh (or thawed-from-frozen) and peeled shrimp; 2) to which a "dusting" layer of rice or wheat flour of at least 95 percent purity has been applied; 3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; 4) with the non-shrimp content of the end product constituting between four and 10 percent of the product's total weight after being dusted, but prior to being frozen; and 5) that is subjected to IQF freezing immediately after application of the dusting layer. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by this order are currently classified under the following HTSUS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, and 1605.20.10.30. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of this order is dispositive.

Period of Review

The POR is February 1, 2007, through August 14, 2007.

Cost of Production

As discussed in the *Preliminary Results*, we conducted this administrative review to determine whether Promarisco and Songa made third country sales of the foreign like product during the POR at prices below their costs of production (COP) within the meaning of section 773(b)(1) of the Act. For Promarisco and Songa, we performed the cost test for these final results following the same methodology as in the *Preliminary Results*, except as discussed in the decision memorandum accompanying this notice (the Decision Memo).

We found that 20 percent or more of each respondent's sales of a given product during the reporting period were at prices less than the weighted-average COP for this period. Thus, we determined that these below-cost sales were made in "substantial quantities" within an extended period of time and at prices which did not permit the recovery of all costs within a reasonable period of time in the normal course of trade. See sections 773(b)(2)(B) - (D) of the Act.

Therefore, for purposes of these final results, we find that Promarisco and Songa made below-cost sales not in the ordinary course of trade. Consequently, we disregarded these sales for each respondent and used the remaining sales as the basis for determining normal value pursuant to section 773(b)(1) of the Act.

Analysis of Comments Received

All issues raised in the case briefs by parties to this administrative review, and to which we have responded, are listed in the Appendix to this notice and addressed in the Decision Memo, which is adopted by this notice. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, HCHB Room 1117, of the main Department building.

In addition, a complete version of the Issues and Decision Memorandum (Decision Memo) can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/>. The paper copy and electronic version of the Decision Memo are identical in content.

Changes Since the Preliminary Results

Based on our analysis of the comments received, we have made certain changes in the margin calculations for Promarisco and Songa. These changes are discussed in the relevant sections of the Decision Memo.

In addition, we have changed our calculation of the margins and assessment rates applicable to the companies not selected for individual examination to reflect the simple average of the margins calculated for the respondents selected for individual examination in this review, rather than the weighted average of these margins, excluding *de minimis* margins or margins based entirely on facts available (FA). This is consistent with our current practice with respect to the calculation of the margins and assessment rates applicable to non-mandatory respondents in cases such as the instant one, where there are only two mandatory respondents with above *de minimis* margins, or margins based entirely upon FA. See *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Preliminary Results of Antidumping Duty Administrative Reviews and Intent to Rescind Reviews in Part*, 73 FR 25654, 25655 (May 7, 2008); unchanged in *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in*

Part, 73 FR 52823, 52824 (September 11, 2008).

Final Results of Review

We determine that weighted-average dumping margins exist for the respondents for the period February 1, 2007, through August 14, 2007, as follows:

Manufacturer/Exporter	Percent Margin
Promarisco, S.A.	0.85
Sociedad Nacional de Galapagos C.A. (Songa)	0.75

Review-Specific Average Rate Applicable to the Following Companies:²

Manufacturer/Exporter	Percent Margin
Agricola e Industrial Ecuaplantation SA	0.80
Agrol SA	0.80
Alberto Xavier Mosquera Rosado	0.80
Alquimia Marina SA	0.80
Babychic SA	0.80
Biolife SA	0.80
Braistar	0.80
Camaronera Jenn Briann	0.80
Camarones	0.80
Comar Cia Ltda.	0.80
Doblertel SA	0.80
Dumary SA	0.80
Dunci SA	0.80
El Rosario Ersas SA	0.80
Empacadora Bilbo SA (Bilbosa)	0.80
Empacadora del Pacifico SA (EDPACIF SA)	0.80
Empacadora Dufer Cia. Ltda. (DUFER)	0.80
Empacadora Grupo Gran Mar (Empagran) SA	0.80
Empacadora Nacional CA	0.80
Empacadora y Exportadora Calvi Cia. Ltda.	0.80
Empreda SA	0.80
Estar CA	0.80
Exporclam SA	0.80
Exporklore SA	0.80
Exportadora Bananera Noboa	0.80
Exportadora de Productos de Mar (Produmar)	0.80
Exportadora del Oceano (Oceanexa) CA	0.80
Exportadora Langosmar SA	0.80

² This rate is based on the simple average of the margins calculated for those companies selected for individual examination, excluding *de minimis* margins or margins based entirely on FA, as discussed above.

Manufacturer/Exporter	Percent Margin	Manufacturer/Exporter	Percent Margin
Exportadora del Oceano Pacifico SA (OCEANPAC)	0.80	Transcity SA	0.80
Exports Langosmar SA	0.80	Transmarina CA	0.80
Fortumar Ecuador SA	0.80	Transocean Ecuador SA	0.80
Gambas del Pacifico SA	0.80	Uniline Transport System	0.80
Gondi SA	0.80		
Hector Canino Marty	0.80		
Hectorosa SA	0.80		
Industrial Pesquera Santa Priscila SA (Santa Priscila)	0.80		
Inepexa SA	0.80		
Jorge Luis Benitez Lopez	0.80		
Karpicorp SA	0.80		
Luis Loaiza Alvarez	0.80		
Mardex Cia. Ltda.	0.80		
Marine	0.80		
Marines CA	0.80		
Mariscos de Chupadores Chupamar	0.80		
Mariscos del Ecuador C. Ltda. (Marecuador)	0.80		
Natural Select SA	0.80		
Negocios Industriales Real Nirsa SA (NIRSA)	0.80		
Novapesca SA	0.80		
Ocean Fish	0.80		
Oceaninvest SA	0.80		
Oceanmundo SA	0.80		
Oceanpro SA	0.80		
Operadora y Procesadora de Productos Marinos SA (Omarsa)	0.80		
Oyerly SA	0.80		
P.C. Seafood SA	0.80		
Pacfish SA	0.80		
PCC Congelados & Frescos SA	0.80		
Pescazul SA	0.80		
Peslasa SA	0.80		
Phillips Seafoods of Ecuador CA (Phillips)	0.80		
Pisacua SA	0.80		
Procesadora del Rio SA (Proriosa)	0.80		
Productos Cultivados del Mar Proc.	0.80		
Productos Cultivados del Mar Proculmar Cia. Ltda.	0.80		
Productos del Mar Santa Rosa Cia. Ltda. (Promarosa)	0.80		
Propemar SA	0.80		
Provefrut	0.80		
Rommy Roxana Alvarez Anchundia	0.80		
Sea Pronto Hector Marty Canino (Sea Pronto)	0.80		
Sociedad Atlantico Pacifico SA	0.80		
Soitgar SA	0.80		
Studmark SA	0.80		
Tecnica y Comercio de la Pesca CA (TECOPESCA)	0.80		
Tolyp SA	0.80		
Trans Ocean	0.80		

Assessment

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries.

Because Promarisco and Songa each reported the entered value of all of their U.S. sales, we have calculated an importer-specific *ad valorem* duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales for each respective importer. We have calculated a single importer-specific assessment rate for Promarisco and Songa, consistent with our practice in the final results of the 2006 2007 administrative review (*see Certain Frozen Warmwater Shrimp from Ecuador: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 39945 (July 11, 2008)). *See also Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and Singapore: Final Results of the Antidumping Administrative Reviews, Rescission of Administrative Review in part, and Determination Not to Revoke Order in Part*, 68 FR 35623 (June 16, 2003), and accompanying Issues and Decision Memorandum at Comment 9B; and *Notice of Final Results of Antidumping Duty Administrative Review and Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products From Canada*, 69 FR 75921 (December 20, 2004), and accompanying Issues and Decision Memorandum at Comment 13.

For the responsive companies which were not selected for individual review, we have calculated an assessment rate based on the simple average of the margins calculated for the companies selected for individual review excluding any which are *de minimis* or determined entirely on FA.

We will instruct Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis* (i.e., at or above 0.50 percent). Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (i.e., less than 0.50 percent).

See 19 CFR 351.106(c)(1). The Department will issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

The Department clarified its “automatic assessment” regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate established in the LTFV investigation if there is no rate for the intermediary involved in the transaction. *See Assessment Policy Notice* for a full discussion of this clarification.

Discontinuation of Cash Deposit Requirements

On August 15, 2007, in accordance with sections 129(b)(4) and 129(c)(1)(B) of the Uruguay Round Agreements Act, the U.S. Trade Representative, after consulting with the Department and Congress, directed the Department to implement its determination to revoke the antidumping duty order on certain frozen warmwater shrimp from Ecuador. *See Implementation of the Findings of the WTO Panel in United States Antidumping Measure on Shrimp from Ecuador: Notice of Determination Under section 129 of the Uruguay Round Agreements Act and Revocation of the Antidumping Duty Order on Frozen Warmwater Shrimp from Ecuador*, 72 FR 48257 (August 23, 2007). Accordingly, the antidumping duty order on certain frozen warmwater shrimp from Ecuador was revoked effective August 15, 2007. As a result, we have instructed CBP to discontinue collection of cash deposits of antidumping duties on entries of the subject merchandise.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility, under 19 CFR 351.402(f)(2), to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping

duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these final results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

September 8, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

Appendix Issues in Decision Memo

General Comments:

Comment 1: Offsetting of Negative Margins

Comment 2: Using CBP Data for Respondent Selection

Comment 3: Restricting Count-Size Comparisons Under the Model-Matching Methodology

Comment 4: Assessment Rate Assigned to Companies Receiving the Review-Specific Average Rate

Comment 5: Reporting of Raw Material Costs

Company-Specific Comments:

Promarisco

Comment 6: Use of Adverse Facts Available to Calculate Promarisco's Imputed Credit Expenses

Comment 7: Treatment of Promarisco's Bill of Lading Fees and Analysis and Inspection Fees

Comment 8: Adjustment of Promarisco's Indirect Selling Expenses

Comment 9: Treatment of Promarisco's U.S. and Comparison-Market Billing Adjustments

Comment 10: Payment Date Assigned for Certain U.S. sales

Comment 11: Treatment of Write-offs in G&A Expenses

Comment 12: Treatment of Promarisco's Interest Income Offset

Comment 13: Processing Costs for Block-Frozen Products

Comment 14: Calculation of Entered Value for a Certain U.S. Sale

Songa

Comment 15: Revision of Count-Size Range Model-Match Coding for Certain Head-On Shrimp Products

Comment 16: Completeness of Indirect Selling Expense Reporting

Comment 17: Inclusion of Foreign Exchange Losses in Songa's Financial Expense Ratio

Comment 18: Treatment of Depreciation for Revalued Fixed Assets in Fixed Overhead Costs

Comment 19: Amortization of the Cost of Export Certificates in Financial Expenses

Comment 21: Offset Adjustment to G&A Expenses for Certain Non-Operating Income Items

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-475-819]

Certain Pasta from Italy: Final Results of the 12th (2007) Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce ("the Department") has completed its administrative review of the countervailing duty ("CVD") order on certain pasta from Italy for the period January 1, 2007, through December 31, 2007. On May 28, 2009, we published the Preliminary Results of this review. *See Certain Pasta from Italy: Preliminary Results of the 12th (2007) Countervailing Duty Administrative Review*, 74 FR 25489 (May 28, 2009) ("Preliminary Results"). We did not receive any comments on the *Preliminary Results* and have made no revisions. We find that De Matteis Agroalimentare S.p.A. ("De Matteis") received countervailable subsidies. The final net subsidy rate for De Matteis is listed below in the section entitled "Final Results of Review."

EFFECTIVE DATE: September 15, 2009.

FOR FURTHER INFORMATION CONTACT: Shelly Atkinson or Brandon Farlander, AD/CVD Operations, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-0116 and (202) 482-0182, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 24, 1996, the Department published a CVD order on certain pasta ("pasta" or "subject merchandise") from Italy. *See Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta From Italy*, 61 FR 38544 (July 24, 1996). On July 11, 2008, the Department published a notice of "Opportunity to Request Administrative Review" of this CVD order for calendar year 2007, the period of review ("POR"). *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 73 FR 39948 (July 11, 2008). On July 28, 2008, we received such a request from F.lli De Cecco di Filippo Fara San Martino S.p.A. ("De Cecco"). On July 31, 2008, we received a review request for review from De Matteis. On July 31, 2008, we received a collective request from New World Pasta Company, American Italian Pasta Company, and Dakota Growers Pasta Company ("petitioners") for a review of De Matteis. In accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of this review on August 26, 2008. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 73 FR 50308 (August 26, 2008).

On September 15, 2008, we issued CVD questionnaires to the Commission of the European Union ("EU"), the Government of Italy ("GOI"), De Matteis, and De Cecco. We received responses to our questionnaires in October and November 2008. On December 22, 2008, De Cecco withdrew its request for review. On January 27, 2009, we rescinded the review with respect to De Cecco. *See Certain Pasta From Italy: Notice of Partial Rescission of Twelfth (2007) Countervailing Duty Administrative Review*, 74 FR 4734 (January 27, 2009).

We issued supplemental questionnaires to De Matteis and the GOI in December 2008, January 2009, and March 2009, and we received responses to our supplemental questionnaires in December 2008, February 2009, March 2009, and April 2009.

Since the publication of the *Preliminary Results*, we invited interested parties to submit briefs. No briefs were received.

Period of Review

The period for which we are measuring subsidies, or POR, is January 1, 2007, through December 31, 2007.